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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,865	01/17/2001	Hiroshi Kyusojin	09792909-4886	5798

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EXAMINER

SAM, PHIRIN

ART UNIT PAPER NUMBER

2661

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/761,865

Applicant(s)

KYUSOJIN ET AL.

Examiner

Phirin Sam

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**PHIRIN SAM****PRIMARY EXAMINER****Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 5,907,556 (hereinafter referred as “Hisanaga”).

Hisanaga discloses the invention (**claims 1 and 2**) as claimed including a packet transmitting method comprising the steps of:

- (a) controlling a timing of packet transmission in a transmission terminal on a packet network (see Fig. 6, element 12, col. 8, lines 32-36);
- (b) controlling the amount of data to be transmitted per unit time from the transmission terminal to the network (see Fig. 10, col. 12, lines 30-35);
- (c) wherein a packet is transmitted at an interval according to a packet size (see Fig. 10, col. 12, lines 16-28).

3. Claim 5 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,134,585 (hereinafter referred as “Yamato”).

**Regarding amended claim 5**, Yamato discloses a packet transmission apparatus comprising:

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(a) time calculating means for calculating time necessary for transmitting each packet (see Figs. 9, 10, elements 302, 402, col. 13, lines 53-58, and col. 15, lines 6-10, 36-44);

(b) means for controlling a timing of packet transmission based on the time for transmitting each packet, calculated by the time calculating means (see Fig. 17, elements 601, 602, and 604, col. 17, lines 61-64).

4. Claims 6 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,570,883 (hereinafter referred as "Wong").

**Regarding amended claims 6 and 7**, Wong discloses a packet transmitting method comprising the steps of:

(a) independently controlling a packet order and a packet flow rate in a transmission terminal on a packet network (see Fig. 2, elements 22, col. 6, lines 54-61);

(b) carrying out bandwidth guaranteeing for a plurality of flows (see Fig. 6, col. 9, and lines 31-35);

(c) wherein the packet order is controlled by software (see Fig. 2, element 22, col. 6, lines 54-57, col. 7, lines 39-42) and the packet flow rate is controlled by hardware (see Figs. 2 and 5, col. 14, lines 40-45).

***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 2, and 5-7 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

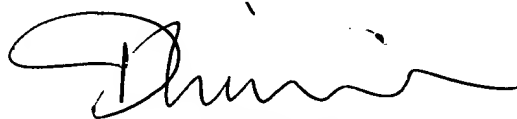
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on a compress schedule, from 8:00-5:30, first Wed off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on (571) 272 - 3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

Date: January 8, 2006

A handwritten signature in black ink, appearing to read 'Phirin Sam', written over a horizontal line.

**PHIRIN SAM  
PRIMARY EXAMINER**